

NOAA ENVIRONMENTAL COMPLIANCE PROGRAM

Date of Issuance: 10/5/98 Effective Date: 09/29/98

[SECTION 1. PURPOSE.](#)

[SECTION 2. SCOPE AND AUTHORITY.](#)

[SECTION 3. DEFINITIONS.](#)

[SECTION 4. POLICIES.](#)

[SECTION 5. RESPONSIBILITIES.](#)

[SECTION 6. EFFECT ON OTHER ISSUANCES.](#)

SECTION 1. PURPOSE. [Top of Page](#)

This Order establishes the National Oceanic and Atmospheric Administration (NOAA) program for continued compliance with Department Administrative Order (DAO) 216-17, Compliance with Environmental Pollution Standards; Executive Order (E.O.) 12088, Federal Compliance with Pollution Control Standards; and Federal, state, and local statutes and environmental regulations. NOAA's Environmental Compliance program has been developed to ensure that NOAA facilities and activities are in compliance with all applicable Federal, state, and local environmental requirements.

SECTION 2. SCOPE AND AUTHORITY. [Top of Page](#)

DAO 216-17 requires Department offices and operating units to adhere fully to environmental pollution control laws, regulations, and directives and to cooperate with Federal, state, and local agencies in improving the quality of the environment. DAO 216-17 also specifically directs the head of each operating unit (such as the NOAA Administrator) to develop and implement programs and activities to prevent or minimize adverse impacts on environmental quality. This NOAA Administrative Order (NAO) implements and supplements DAO 216-17 within NOAA. The provisions of this Order apply to all NOAA personnel, including contractors. For purposes of this Order, the Office of NOAA Corps Operations shall be considered a Line Office (LO).

SECTION 3. DEFINITIONS. [Top of Page](#)

.01 General Note on Certain Definitions.

Within this Section, certain terms are defined representing personnel who have roles in environmental compliance matters. However, the terms may not be used by each LO/SO component of NOAA. The specific terms are: Designated Responsible Official; Facility Environmental Coordinator; Line Office Environmental Compliance Officer; Principle Investigator; Safety and Environmental Compliance Officer; and Special Project Manager. Because of organizational and management differences, LOs and SOs may have adopted different “titles” for their environmental personnel and, in some cases, may not have individuals performing the functions associated with each of the defined terms. Readers of this Order should review the functions described in the definitions of these specific terms to determine whether the terms are applicable to their organization.

.02 Terms and Definitions.

- a. **Annual Operation and Maintenance Costs.** These costs include environmentally required items and activities such as annual tank testing, permit fees, training costs, annual service fees, disposal of hazardous wastes, spill containment and cleanup (spills that are due to operational activities), and incidents which are the direct result of operating a facility. These costs includes activities necessary to correct notices of violation received from regulating agencies (excluding historical contamination).
- b. **Capital Costs.** These costs include items and activities such as designing, constructing, and installing pollution abatement systems and equipment; designing, constructing, and implementing remedial environmental projects; and the studying, managing, and monitoring associated with designing and constructing corrective/remedial measures and equipment. This definition is consistent with the definitions and policies established by the Office of Management and Budget (OMB) in Circular A-11 and the FEDPLAN (see Section 3.06 of this Order).
- c. **Chief Financial Officers (CFO) Act.** The CFO Act of 1990, as amended by the Government Management Reform Act of 1994, requires audited financial statements covering all accounts and associated activities of each office, bureau, and activity of all Executive Branch offices. These acts require NOAA's Environmental Compliance Program to identify contaminated sites and estimate cleanup costs. These sites and costs are considered environmental liabilities and are disclosed in NOAA's annual financial statement.
- d. **Designated Responsible Official.** The Designated Responsible Official (DRO) at every NOAA facility is the senior NOAA official on-site. This official has authority over operations or activities which are subject to environmental statutes. The responsibility of the DROs is inherent in their position and need not be formally designated or ascribed.
- e. **Facility Environmental Coordinator.** The Facility Environmental Coordinator (FEC) is responsible for ensuring the activities carried out at a facility are conducted in accordance with Federal, state, and local environmental regulations. Typically, each NOAA facility will have a designated FEC who is also

responsible for compliance with occupational safety and health requirements.

- f. Federal Agency Environmental Management Program Planning - Project Report (FEDPLAN). This is a U.S. Environmental Protection Agency (EPA) form required as part of a process established by E.O. 12088 and also required by OMB Circular A-11. The main purposes of FEDPLAN are to ensure that Federal agencies identify needed environmental projects and their costs, and target adequate resources to address those projects.
- g. Line Office Environmental Compliance Officer. The Line Office Environmental Compliance Officer (LECO) is responsible for assisting the LO managers, including the DROs, Safety and Environmental Compliance Officers (SECOs), and FECs, with environmental compliance responsibilities. The LECOs are knowledgeable of Federal, state, and local regulations affecting facilities within their LO.
- h. NOAA Environmental Compliance Network. The NOAA Environmental Compliance Network includes the Headquarters Environmental Compliance Staff (including Regional Environmental Compliance Officers (RECOs)), LECOs, SECOs, and FECs.
- i. NOAA Environmental Compliance Program. The purpose of the NOAA Environmental Compliance Program (NECP) is to assure adherence and compliance with environmental laws established by Federal, state, and local governments as well as internal NOAA policies. The NECP includes policies/guidance development, training, standard operating procedures, organizational structure, financial management, and lines of communication. The Environmental Compliance Staff, reportable to NOAA's Chief Financial Officer/Chief Administrative Officer (CFO/CAO), is responsible for carrying out the NECP. The Chief of the Environmental Compliance Staff is the NECP manager.
- j. Principle Investigator. "Principle Investigator" (PI) is a term common in the research community. A PI is an individual having primary responsibility for planning a specific NOAA research activity, project, or program, and for managing the associated people and funds throughout its life cycle. A PI may incur environmental compliance responsibilities associated with the activity, project, or program.
- k. Program Management Costs. These costs include items and activities necessary to provide a service, such as compliance auditing, training, project management, or chemical inventory management to NOAA-wide customers. Specific management programs typically have three phases: concept, prototype and implementation. NOAA-wide programs are developed when services are needed or requested by NOAA LO and/or Staff Office (SO) personnel. Management programs are developed by the Environmental Compliance Staff in consultation with targeted clients interested in the specific service or program.
- l. Project Prospectus Form. The Project Prospectus Form is used to initiate the environmental compliance project planning, programming, and budgeting process. The form is initiated by the FEC, transferred to the RECO for cost validation, and then sent to the Environmental Compliance Staff for final validation and inclusion in the NOAA Project List and FEDPLAN.

- m. **Regional Environmental Compliance Officer.** The Regional Environmental Compliance Officers (RECO) assist NOAA managers with their environmental compliance responsibilities. The RECOs are knowledgeable of Federal, state, and local regulations affecting facilities within their region and assist in implementation of the NECP at the local level. The RECO positions are formally matrixed from NOAA's Environmental Compliance Staff to the four Administrative Support Centers (ASCs).
- n. **Safety and Environmental Compliance Officer.** The Safety and Environmental Compliance Officers (SECO) are responsible for advising LO directors, DROs, managers, and other personnel within their respective region of the various safety, health, and environmental compliance requirements applicable to their operations and/or facilities. Additionally, they provide assistance to ensure all LO operations are conducted in a safe and environmentally compliant manner.
- o. **Special Project Manager.** Special project managers are individuals that conduct various activities on NOAA's behalf. Among those included in this category are construction project managers and individuals conducting major LO programmatic initiatives off-site. Special project managers may incur environmental compliance responsibilities associated with project or initiative.
- p. **Strategic Planning.** This is a formal plan required by the Government Performance and Results Act of 1993 (GPRA) to improve the internal management of the Federal Government. The strategic plan is used to align the organization and budget with mission, goals, and objectives. In accordance with OMB Circular A-11, the strategic plan serves as a guide for formulating and executing budgets for programs, projects, and activities.

SECTION 4. POLICIES. [Top of Page](#)

.01 NOAA shall operate its facilities and manage its resources to minimize any adverse impact on human health and the environment. NOAA shall cooperate with the EPA, state, interstate, and local agencies in the prevention, control, and abatement of environmental pollution. NOAA shall consult with the EPA and with state, interstate, and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution. NOAA shall adhere fully to the laws, regulations, E.O.'s, and DAOs forming the basis for this Order and will cooperate with Federal, state, and local agencies in protecting the quality of the environment.

.02 The Under Secretary for Oceans and Atmosphere shall ensure that funds made available through appropriations from Congress for the prevention, control, and abatement of environmental pollution are not used for any other purpose unless permitted by law and specifically approved by OMB.

.03 Incidents involving the release of an oil or hazardous substance in reportable quantities, as defined by Section 302 of title 40 of the Code of Federal Regulations (40 CFR 302), shall immediately be reported to the designated regulatory agency identified in the facility spill contingency plan as well as to the appropriate LECO and RECO. Additionally, all areas of non-compliance and inability to meet

environmental requirements, and all Notices of Violation received from a Federal, state, and/or local regulating agency, shall be reported to the designated LECO and RECO within five (5) days of receipt or at such time as the FEC, Special Project Manager, SECO, or DRO becomes aware of any compliance deficiency. The RECO shall notify the NECP manager of the deficiency or violation and will work with the LECO, DRO, and FEC to address and resolve the issue.

.04 In the event that the NECP manager determines or becomes aware that an LO or SO is unable to carry out the compliance measures required by any law or regulation, the NECP manager shall advise the Deputy Under Secretary (DUS) and the CFO/CAO. Such notice to senior management shall include a recommendation for action to address the issue at hand. The CFO/CAO shall, in accordance with Section 1-101 of E.O. 12088, and on a cost reimbursable basis, initiate appropriate measures to ensure that necessary actions are taken to address any deficiencies specifically raised. The purpose of such measures is to prevent, control, and abate environmental pollution at facilities under the control of NOAA.

.05 Environmental compliance responsibilities shall be incorporated into senior NOAA management performance criteria. The NECP manager shall provide feedback to the DUS regarding senior management's performance of environmental compliance duties and responsibilities. This information will be used by the DUS in assessing management's fulfillment of the environmental compliance performance criteria.

.06 The NOAA Environmental Compliance Staff shall establish guidance for implementing the policies established in this Order. This guidance shall be developed with full participation by LOs and SOs and shall be issued under the signature of the Chief, Environmental Compliance Staff. Topics covered in this guidance include, but are not limited to, project management, audits, funding, corrective actions, property transfers, and cleanup activities.

.07 NOAA shall sustain environmental compliance by following the Code of Environmental Management Principles (CEMP), an environmental management system for Federal agencies and their facilities (see the October 16, 1996, Federal Register). The CEMP is composed of five broad environmental management principles: 1) Management Commitment, 2) Compliance Assurance and Pollution Prevention, 3) Enabling Systems, 4) Performance and Accountability, and 5) Measurement and Improvement. These principles are presented in detail in EPA's Implementation Guide for the Code of Environmental Management Principles for Federal Agencies (CEMP) (March 1997). The Environmental Compliance Strategic Plan implements the CEMP for NOAA.

SECTION 5. RESPONSIBILITIES. [Top of Page](#)

.01 General Responsibilities.

a. The Under Secretary for Oceans and Atmosphere shall strive to ensure that sufficient funds are

requested and allocated for the NECP which include capital costs, annual operations and maintenance costs, and program management costs.

b. NOAA's Office of General Counsel shall provide legal advice and counsel on environmental compliance issues.

c. NOAA's CFO/CAO shall develop policies and institute a program to ensure environmental compliance throughout NOAA.

d. The NOAA Environmental Compliance Staff shall oversee, monitor, and provide technical assistance and training concerning environmental compliance to DROs, Special Project Managers, PIs, and the NOAA Environmental Compliance Network. The NECP shall provide funds within the limits of its allocation from NOAA's Congressional appropriation for compliance projects where financial responsibility goes beyond the funding capabilities of the DRO, Special Project Manager, and LO. The NECP funding will typically cover violations and cleanup of past NOAA operations.

d. Heads of LOs and SOs shall plan, develop, and implement programs and activities to prevent or minimize adverse impacts to human health and the environment. This includes incorporating environmental compliance responsibilities into performance plans for those who manage or handle hazardous materials and incorporating environmental compliance as an element in existing and new programs and activities.

e. The day-to-day responsibility for protecting the environment is a responsibility of every NOAA employee. DROs, FECs, Special Project Managers, and PIs shall be responsible for the day-to-day environmental compliance of their facilities and activities.

.02 Program Responsibilities. Environmental compliance is a responsibility shared among NOAA components. Failure to take actions necessary to abate environmental problems once they have been discovered can lead to personal legal liability. Following are organizational responsibilities for administering the NECP.

a. The Environmental Compliance Staff is responsible for:

1. developing NOAA-wide programs and guidance for implementing environmental compliance policies through the strategic planning process;
2. formulating multi-year budgets in consultation with the NOAA Environmental Compliance Network and the LOs and SOs;
3. executing the NECP in accordance with annual appropriations;
4. setting project priorities, establishing performance measures, and developing annual spending plans in

consultation with LOs and SOs;

5. disseminating environmental compliance technical assistance and information to all NOAA operations;

6. providing functional management support, training, funding, and supervisory oversight to the RECO positions matrixed to the ASCs;

7. establishing training standards, providing training guidance, and sponsoring training classes for LOs and SOs on:

(a) hazardous material and waste management,

(b) best environmental compliance management practices,

(c) environmental laws for managers, and

(d) specific training classes (upon request from an LO or SO);

8. overseeing program implementation, evaluating performance against stated goals, and providing program reports as required;

9. managing the facility audit and survey program to assess the compliance status of NOAA facilities and operations;

10. managing the environmental management system audits to assess the effectiveness of programs at the facility and management levels;

11. providing technical assistance on compliance with the National Environmental Policy Act (NEPA) for construction-related projects;

12. determining environmentally-regulated contamination at NOAA- owned properties and providing data annually on financial environmental liabilities to support NOAA's financial statement as required by the CFO Act of 1990;

13. maintaining the NECP project list and providing the annual NOAA FEDPLAN submittal to OMB and EPA; and

14. elevating environmental compliance issues to senior management with recommendations for

resolution as necessary to ensure compliance.

b. The technical assistance and field component of the NECP is conducted by the RECOs. The RECOs, who are physically located at the ASCs, have day-to-day responsibility for addressing environmental concerns with their respective NOAA regional clients. RECOs are responsible for:

1. supporting the NECP strategic plan;
2. formulating the regional environmental compliance budget requirements in cooperation with the DROs, Special Project Managers, and the NOAA Environmental Compliance Network;
3. providing technical information on Federal, state, and local environmental compliance requirements;
4. participating in facility condition surveys, environmental audits, surveys, environmental management system audits, and site studies;
5. providing technical support in developing pollution abatement and prevention plans;
6. providing technical support in the cleanup of contaminated site conditions;
7. maintaining contact with appropriate Federal, state, and local government and regulatory officials;
8. providing the results and assisting with the close-out of findings from audits, surveys, reviews, or other assessments performed within their respective regions;
9. providing assistance on the completion of NEPA documents for construction projects within their region. Assistance will be provided in accordance with the requirements of NAO 216-6, Environmental Review Procedures for Implementing the National Environmental Policy Act;
10. assisting with the preparation of Project Prospectus Forms, including cost estimates, and submitting the forms to the Headquarters Environmental Compliance Staff;
11. creating and updating environmental liability project files in accordance with the requirements of implementing policy guidelines;
12. providing assistance to LOs and SOs on environmental compliance status reports for NOAA Headquarters;

13. elevating environmental compliance issues to Headquarters Environmental Compliance Staff with recommendations for resolution as necessary to ensure compliance; and

14. maintaining environmental compliance performance measurements for the assigned region.

c. LO and SO officials are responsible for:

1. supporting the NECP strategic plan;

2. incorporating plans for environmental compliance in programs and activities that require the decommissioning of facilities or vessels;

3. formulating budget requests for annual maintenance and operating costs related to environmental compliance;

4. ensuring that funds appropriated and apportioned for the prevention, control, and abatement of environmental pollution are used for their specifically intended purpose, and are consistent with E.O.s and this Order;

5. preparing and submitting the Project Prospectus Forms for environmental compliance projects to their LOs and providing copies to the servicing ASC;

6. ensuring that all appropriate personnel are trained in accordance with assigned responsibilities and legal mandates and that the personnel are certified, as applicable;

7. ensuring DROs have, to the extent practical, adequate staffing to assure environmental compliance;

8. ensuring LECOs, SECOS, and FECs receive periodic environmental compliance training to maintain currency with regulatory requirements;

9. participating in the environmental compliance audit and survey program, and closing out findings as noted; and

10. elevating environmental compliance issues to LO senior management with recommendations for resolution as necessary to ensure compliance.

d. The DROs are responsible for:

1. ensuring that facility operations and activities are conducted in compliance with environmental requirements;

2. ensuring that on-site personnel are aware of environmental requirements and are appropriately trained; and

3. elevating environmental compliance issues to LO senior management with recommendations for resolution as necessary to ensure compliance.

e. Special Project Managers and PIs are responsible for:

1. assuring that activities associated with their projects are conducted in compliance with environmental requirements; and

2. assuring that project personnel are aware of environmental requirements and are appropriately trained.

03. Financial Responsibilities.

a. The Under Secretary for Oceans and Atmosphere is responsible for requesting and allocating sufficient funds for NOAA's environmental compliance. The NECP is the focal point in NOAA for the identification, correction, and prevention of environmental problems at NOAA facilities. The NECP will provide funds, within appropriations, for correcting historical environmental cleanup problems.

b. The NECP manager shall submit a budget request covering NOAA's anticipated funding requirement to establish and operate an environmental compliance program. The NECP budget request shall include projects from the project list, capital costs, program management costs, personnel and administrative costs, and interagency joint ventures. Irrespective of the existence of this specific program and budget to oversee the NECP, ultimately, each manager is responsible for environmental compliance associated with the organization's operations. Responsibility for funding required environmental compliance program activities is not limited by the extent of funds made available for this purpose. NECP funding will be allocated to projects based on priority ranking criteria established under EPA guidelines (FEDPLAN). However, beyond the limitations of NECP funding, LOs will be responsible for ensuring that funds are made available to correct any significant environmental compliance problems associated with that Office's operations.

c. Program Costs.

1. Capital Costs. Central funding from the NECP will be used for capital costs of structure and equipment, but not for annual operation and maintenance costs. In a case where NOAA acquires property where an environmental problem is later found to exist, the Environmental Compliance Staff, with the assistance of General Counsel, will attempt to obtain funding from the previous property holders. If that effort is unsuccessful, the Environmental Compliance Staff will seek funds for the cleanup.

2. Annual Operation and Maintenance Costs. Annual operation and maintenance costs associated with

environmental compliance are defined as those costs that are a result of doing business. These costs are not capital costs, and thus should not be funded from the NECP. Funding for annual operation and maintenance aspects of environmental compliance is the responsibility of each LO within the limits of its allocation from NOAA's Congressional appropriations.

3. Program Management Costs. Central funding from the NECP will be used to initiate NOAA-wide environmental compliance programs. Centralized funding will be used to develop a program from concept through the piloting phases. At the time of nationwide implementation, the LO and Environmental Compliance Staff, in consultation with NOAA's Management and Budget Staff, will determine the LO cost sharing for the specific program. Cost sharing will be on a case-by-case basis and will be determined annually. The cost sharing requirement will be provided before LO budget submission for the Fiscal Year when the specific program will be implemented.

d. Special Situations. There are other special cases as well that affect funding:

1. Facility Closure/Modification. Some environmental cleanup actions may become necessary where NOAA program decisions affect the establishment, alteration, closure, or decommissioning of NOAA facilities. Where such actions can be anticipated, their costs should be incorporated into the program budget of the LO as part of the overall project cost.

2. Special Funding (Emergencies). When a situation develops that requires extensive and immediate action, the LO and the Environmental Compliance Staff will jointly determine the priority of the project required to correct the situation and will jointly determine funding for the project from their existing programs. If the project requires funding beyond the capabilities of their programs, funding will be requested from other sources in the following order: NOAA sources, Department sources, and supplemental Congressional appropriations. The Environmental Compliance Staff and the LO will jointly prepare such requests for funding the required project.

SECTION 6. EFFECT ON OTHER ISSUANCES. [Top of Page](#)

This Order supersedes NAO 216-17, NOAA Environmental Compliance Program, dated December 14, 1994.

SIGNED,
Chief Financial Officer/Chief Administrative Officer

Office of Primary Interest:
Office of Finance and Administration
Environmental Compliance Staff (OFAx3)